

A BRIEF HISTORY  
OF THE  
**NEW JERSEY**  
**CONGRESSIONAL ELECTION,**

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**The Publisher's Notice**

On offering to the Public a History of the  
**NEW JERSEY CONGRESSIONAL ELECTION.**

“Remove not the ancient Land-mark which thy Fathers have set.”

Had the above divine precept been before the eyes of Messrs. Booraem and Fithian, and they had acted agreeable to its mandate in making out their respective returns of the Congressional Election, what trouble, bad feelings, and expense would have been saved to the good people of New Jersey. But after all, perhaps these two *worthy Gentlemen* are deserving of pity for their *extreme weakness* in being led astray!!! therefore it may be as well to put the saddles on the right steeds, viz. the *Federal leaders*, embracing the Governor and his Privy Council. Jersey men are respectfully recommended to lay aside all prejudice, and the various statements that have been made and circulated by the Federal Party, in their defence of the election under consideration, and carefully peruse the history now presented, and judge for themselves of the facts &c. therein stated. If the people of New Jersey will do this, they cannot, nay they will not retain in power such *unfaithful Servants*, unless indeed the battles fought at Trenton, Monmouth &c., for the right of self government through the ballot box, is not totally obliterated from the feelings and memory of *Jersey men*.





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THE  
**NEW JERSEY**  
**CONGRESSIONAL ELECTION.**

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THE last year has witnessed events which are destined to an enduring but dark celebrity in our annals as a free people. The bold attempt made by the federal leaders in Pennsylvania "to treat an election as though they had not been defeated," is one; the equally daring, but more successful, violation of the right of popular suffrage in New Jersey, is another.

When the tempest of partisan strife shall have subsided—when sober reason and cool reflection regain their wonted ascendancy over the minds of men—when the struggle for political power shall have passed with those who originated, and who hoped to profit by it; and these events are viewed through the medium of intervening years, men will gaze with astonishment upon the spectacle of folly and wickedness which they present, and the historian will chronicle them among the sad records of human infirmity; where faction, for the purpose of the hour, has so often assumed the tremendous responsibility of perilling or defeating the fairest experiments of human liberty. The actors in each successive scene may have their future apologists. Arnold and Burr have theirs. But while the fires of liberty shall continue to burn bright on our political altars, and in the hearts of our people, they will not be forgotten or forgiven.

The conspirators in Pennsylvania and New Jersey seem to have been actuated by one common impulse. They sought the same object, the perpetuation of their power; and they pursued it by similar means. They made their returning officers the instruments for suppressing the voice of the people, and reversing the decisions of the ballot-boxes. The difference in the result was a consequence of the fact, that in Pennsylvania the ballot-boxes sent a majority of Democrats to the popular branch of the Legislature; while, in New Jersey, a majority of Federalists were returned to both branches. In Pennsylvania the people had a constitutional rallying point in their House of Representatives; they gathered round it, and concentrating there the thunder of popular opinion, beat back the assailants of freedom, with an energy as firm as it was triumphant. But in New Jersey all the sources of constitutional authority had fallen into the hands of the Federalists. They had the Legislature, the Executive, the Judiciary—there was no point upon which the people could rally recognized by law. Submission to fraud, or a revolutionary movement, were the only alternatives presented. And a liberty-loving people, who would have shed the last drop of their blood to preserve pure and inviolate the institutions of their country, rightly paused. They petitioned, remonstrated, reasoned; and were spurned; treated with contumely, and defrauded of their rights. They submitted, but have taken their appeal to the unerring principles of justice, that have so often rescued and redeemed the cause of democracy.

We propose, while the New Jersey case is yet fresh in the public mind, briefly to present the facts connected with it, and review its leading features.



Its perfect novelty, without precedent or parallel; its deep and practical bearing upon the life and spirit of our political system; its peculiar connection with the great and fundamental tenet of our creed, that the majority must govern, all conspire to magnify its importance, and awaken to it a deep and pervading interest.

It is a case of great simplicity, embracing but few facts, and none that are disputed.

By the laws of New Jersey the election for members of Congress and the State Legislature is held at the same time, except when electors of President and Vice President are to be chosen. The time is the second Tuesday of October and the day following. The election is by ballot, and all the candidates voted for are put on the same ballot. One poll is held in each township. The assessor and collector of the township, with a judge of election, chosen for the purpose at the annual town meeting, preside at, and act as judges and inspectors of election, and the clerk of the township officiates as clerk. The time of opening and closing the polls is uniform, and fixed by statute.

The candidates for Congress are nominated in the several counties on the first Monday in September; the clerks transmit the nominations to the Governor, who prepares and transmits a true list of all the names nominated to the clerk of each county in the State; the county clerk forwards a copy to each township-clerk in his county, who puts copies up for public information; and the election is made exclusively from the persons so nominated.

After the poll is closed it is the duty of the judge and inspectors, together with the clerk of the election, to proceed without delay—

“To take an account of, and cast up the votes given in for each candidate, make a list of the same, which list they shall sign, certify, seal up, direct, and transmit to the Clerk of the county, who shall attend at the court-house of the county on the Saturday next after the day of election, for the purpose of receiving the same, which list shall be delivered to him before five o'clock in the afternoon of said day, which said Clerk shall proceed, in a public manner, to make one general list of all the candidates voted for as aforesaid, together with the number of votes received for each of them, and shall transmit the same, at the expense of the State, to the Governor or person administering the government, within seven days thereafter, having first caused a duplicate thereof to be filed in his office, together with the lists from the said townships.”

The Governor is directed:

“If the certified lists of votes given for Representatives in Congress shall not be received from the Clerks of any of the counties of the State by him within seven days after the time prescribed by law for casting up the same, &c., by the Clerks as aforesaid, forthwith to send express to the Clerk of the county or counties from which such certified lists have not been received, and to procure the same at the expense of the State.”

The Governor is also directed:

“Within five days after receiving the said lists, to lay the same before a privy council, to be by him summoned for that purpose, and, after casting up the whole number of votes from the several counties, for each candidate, the said Governor and privy council shall determine the six persons who have the greatest number of votes from the whole State, for Representatives in Congress of the United States from this State,” and forthwith commission them, &c.

This is, substantially, the whole law of the case, and so far as it relates to the question in controversy, we have given it *verbatim* from the statute book.

Now to the facts. The election for Representatives in the twenty-sixth Congress of the United States was held in New Jersey on the ninth and tenth days of October, 1838. Among others, the names of Philemon Dickerson, Peter D. Vroom, Daniel B. Ryall, William R. Cooper, Joseph Kille, Manning Force, Joseph F. Randolph, John B. Aycrigg, John P. B. Maxwell, William Halsted, Charles C. Stratton, and Thomas Jones Yorke, were regu-



larly nominated according to law. The nominations were duly forwarded to the Governor; the general list required by the statute was made by him, and sent to, and received by the Clerks of, the several counties, and by them transmitted to the township-clerks in their respective counties, who published them according to law. These facts are undisputed and indisputable.

On the day fixed by law the polls in every township in the State were opened in due form, at the hour prescribed by the statute, and by the proper officers, lawfully appointed by the people, and continued open for the legal period of time. These facts are undenied.

The judges and inspectors at every poll throughout the State acted honestly, fairly, and conscientiously, as far as appears. No freeman who was believed to be entitled to a vote was any where denied it; and no one believed to be not entitled was any where admitted. So far as the case now before us is concerned, these facts are unquestioned. The idea of hunting up illegal votes to patch up their case, is an afterthought of the federal candidates, and betrays most unguardedly their own utter distrust of the position taken by the Governor and council.

We say, then; thus far the facts are undenied and undeniable; the whole case thus far is free from difficulty.

The law has been complied with; the officers of election have done their duty; the people have exercised their constitutional right of suffrage. The election has been held; the votes of the freemen of New Jersey have been deposited in the ballot-boxes, and all that remains is to ascertain the result.

Let us pause a moment and view the question from this position. Truth is as simple as the light; it is only in the mazes of error that the perception becomes confused, indistinct, and dubious.

The people of New Jersey had *now* exercised the most sacred right guaranteed to them by the Constitution. *They had chosen their Representatives*; they had the undoubted right to do so, the *unconditional right*, limited only by the forms of law; and these having been complied with, the thing was done, the selection made. And we might here take our stand and boldly deny that any authority exists, either in the Executive, the Legislative, or the Judicial departments of the government of New Jersey, to reverse the decision already made the moment the ballot-boxes throughout the State are closed. *There is the voice of the people*, all that remains is to give it utterance. *There is the decision of the sovereigns of the soil—the supreme authority of the land—all that remains for the creatures of that power is to announce its decision.*

We are now prepared to proceed to the next unquestioned fact in this case. It is this: the votes of the people, as they were deposited in the ballot-boxes, were as follows:

For Philemon Dickerson	-	-	28,453	John B. Ayer	-	-	-	28,294
Peter D. Vroom	-	-	28,492	John P. B. Maxwell	-	-	-	28,383
Daniel B. Ryall	-	-	28,441	Wm. Halsted	-	-	-	28,336
William R. Cooper	-	-	28,456	Charles C. Stratton	-	-	-	28,396
Joseph Kille	-	-	28,427	Thomas Jones Yorke	-	-	-	28,321
Manning Force	-	-	28,314	Joseph F. Randolph	-	-	-	28,427
Mr. Dickerson's majority over Mr. Ayer	-	-	-	-	-	-	-	159
Mr. Vroom's	"	"	Mr. Maxwell	-	-	-	-	109
Mr. Ryall's	"	"	Mr. Halsted	-	-	-	-	105
Mr. Cooper's	"	"	Mr. Stratton	-	-	-	-	60
Mr. Kille's	"	"	Mr. York	-	-	-	-	106
Mr. Randolph's	"	"	Mr. Foreo	-	-	-	-	113



We repeat that the election had been held in strict accordance with the forms of law; all the requisitions of the statute book had been complied with; and when the people had exercised their right of suffrage, and the ballot-boxes throughout the State were closed, this was the state of the poll. Messrs. Dickerson, Vroom, Ryall, Cooper, and Kille, five of the Democratic candidates, had each received a majority of votes.

We repeat that at no period, then or since, has this fact ever been denied, doubted, or questioned, by friend or foe, by Democrat or Whig. The official returns show it.

The second section of the Constitution of the United States provides that "the House of Representatives shall be composed of members chosen every second year by the *people of the several States*."

The Laws of New Jersey declare, that "the six persons who have the greatest number of votes from the whole State, shall be the Representatives in the Congress of the United States from this State."

Now, our *first* proposition is, that the persons "chosen by the *people* of the State" are the constitutional Representatives of that State in the Congress of the United States.

And our *second* proposition is, that "the persons who have the greatest number of votes from the whole State" are the persons so chosen by the people.

Can any thing be plainer? Can words, can arguments possibly elucidate, or simplify, or enforce, or render these propositions, more palpable, more clear, more unquestionable? Can hardihood deny—can ingenuity perplex—can sophistry raise doubts about so plain a matter? And yet this is the question, and the whole question, involved in the Jersey case. Let it be borne in mind, we repeat, that the pretence of illegal votes having been given makes no part of the present controversy. That, we say again, is an after-thought. That inquiry was never before the Governor and his Privy Council, who undertook to reverse the decision of the people. That question was never raised by the Clerks who suppressed the returns from the township of Millville and South Amboy. That subterfuge was never thought of in the discussions of the occasion, and the answer to the allegation will be given in its proper place, and will be shown to be of a piece with the wretched humbuggery of this whole miserable farce.

It is here our business to deal only with the law and the facts of the case, up to the moment when the people, having acted—having, in the mode pointed out by the Constitution and the law, "chosen" their Representatives, it only remained to announce what that action was—what they had done—whom they had so chosen.

Here is the law, on the one hand, declaring that the six persons who have the *greatest number* of votes from the whole State are elected. Here are the ballot-boxes, on the other hand, containing the votes of the people of the whole State, of which the *greatest number* have been given for Messrs. Dickerson, Vroom, Ryall Cooper, Kille and Randolph, and we put the question to the plain common sense of every honest man in the community, we care not to what party or sect he belongs, we care not what his opinions may be upon points of national or State policy, or what his preferences for particular men or measures—we ask, are not these men chosen by the electors of New Jersey? Are they not the lawful Representatives of the people? Had they not a right to their certificates? And are they not entitled to their seats?

Yet the Governor of New Jersey, and his privy Council, in the teeth of the law in the face of these facts, all spread before them, all unquestioned,



all undenied, not only refused to commission the gentlemen so elected, but solemnly declared under their official oaths, that Messrs. Aycrigg, Maxwell, Halsted, Stratton, Yorke and Randolph were chosen as the people's Representatives in the next Congress, and gave them commissions accordingly.

The annunciation of the fact, had it been made to a wakeful, watchful, jealous people, in calm and thoughtful and reflecting times, would have startled and astounded like a thunderbolt from a cloudless sky. But it came when the political atmosphere was surcharged with the heat of party passion—when the clouds of angry disappointment hung dense and dark over a defeated clan of ambitious leaders, and they were ready to worship the bolt that revenged them of their adversaries, though it had riven the tree of liberty to its roots, and blighted the last hope of the patriot on earth.

Such is man—so speak the records of the past—the history of human error is but the sad story of the results of unmastered passions and headlong ambition. The experience of ages is rife with the lesson, that in the fever of the blood we forget alike the dictates of sound judgment, the voice of reason and the far-reaching influences of interest itself.

That we may rightly understand the history of this extraordinary case, it becomes necessary to pause for a moment, at this point in the narrative, and take a brief survey of the circumstances which surrounded the principal actors on the stage.

The panic year of 1837 had re-inspired the broken and scattered ranks of the Federal party. The suspension of specie payments by the banks—the consequent embarrassment, enhanced by the wild speculations which had preceded, and the derangement of the currency which attended it—afforded a plausible pretence for charging the Administration with mismanagement, which was industriously used by the designing of that party, and had its effect on thousands of our own, who, either from want of information or reflection became dissatisfied or doubtful, and voted against us, or declined voting at all. In the fall of that year, the State consequently fell into the hands of the Federalists; yet, by a meagre vote—and one that warned them of the exceeding slightness of their tenure. They spent the legislative season, therefore, almost exclusively in efforts to entrench themselves in power in spite of shifting majorities, by creating a new central county, so carved out as to insure a Federal ascendancy within it, and by breaking down the equality of representation among the counties, adding to the Federal what they deducted from those that were Democratic.

But notwithstanding this, and the windfall they received in New York in the course of 1838, the returning tides of prosperity throughout the country—the resumption of specie payments—the instantaneous correction of the disorders in the currency, and the slow but sure effects of “the sober second-thought of the people,” began before October, to awaken and alarm their fears—fears which the result of the election confirmed. The old Democratic counties came on in all their original strength—three counties which they had carried the year before were wrested from them. They carried several of their own counties by diminished majorities, the loss of any one of which would have overthrown them; and added to all this *the Congressional returns exhibited a majority from the whole State against them.* The hand-writing on the wall was visible, and it needed no Daniel to interpret it.

The Governor, in New Jersey, is the creature of the Legislature, depending on it annually for his election; he reached his chair by the removal of a political opponent the fall before, and on the same hair by which his party were suspended, hung his official honors and emoluments. The members of his



Privy Council were the creatures of the majorities of their respective counties. They floated, therefore, to the place of power in October, from the *melee* of the conflict, and from amid disaster and defeat, with a single, solitary plank, a majority of one county, upon which to rest their fortunes for the present, and their hopes for the future.

With this crisis came, too, the Pennsylvania election. The defeat of Ritner and the overthrow of the Federal party by a majority of thousands. Star after star was disappearing from their political firmament—cloud after cloud was rising upon the vision of the future, and the shadows of coming events were already gathering in their path.

It was amid these circumstances of disaster and defeat—disappointment and mortification, that an extraordinary political document was issued at Harrisburgh. It was a circular prepared under the direction and by the authority of the Federal State Committee at the seat of government of Pennsylvania, dated on the thirteenth of October, and signed by the Chairman, who was no less a personage than the Secretary of the Commonwealth, and it announced boldly and distinctly the purpose of that party “*to treat the election in their State as if they had not been defeated.*” In other words, to nullify the voice of the people, to reverse their decision, and to treat their authority with disregard and contempt. It was a plain, unequivocal avowal of the determination of the federal authorities in that state, to hold on to power, peaceably if they could, forcibly if they must.

This circular was sent far and wide. The leaders in New Jersey were early in possession of it. What effect it had upon their subsequent course is left to inference. The only facts we have are, that they defended it in principle, and carried it out in practice—as we shall see.

We now resume the narrative of events as they occurred.

The election, as we have already remarked, was held on the *ninth* and *tenth* of October last. The Saturday next succeeding the election, being the day on which the clerks of the several counties were to “receive the returns from the townships before five o’clock in the afternoon,” was the *thirteenth*. The seven days thereafter within which the county clerks were to send the “general lists of all the candidates voted for in their respective counties, together with the number of votes received for each of them,” to the Governor, expired on the *twentieth*.

The result at every poll is known to the public the moment the votes are counted, and by the *fifteenth*, five days after the election, it was known throughout the State, that five of the Democratic candidates for Congress were elected by an average majority of more than one hundred votes. The clerks of the counties in whose hands the returns were, had, therefore, *five* days after the result was known, for consultation and advisement, before sending their general lists to the Governor. Noting these facts, we pass by, for the present, the returns from all the counties, except those of Cumberland and Middlesex, merely observing that they were received at the executive office within the time prescribed.

The Cumberland return it appears was not made up by the Clerk of that county, until the *seventeenth* at least *two days* after he had learned the general result of the State, and after they had been for *four days* in his hands.\*

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\* It is a singular document, and we give it *verbatim et literatim*, as follows:

“A general list of all the candidates voted for, together with the number of votes received for each candidate to represent the State of New Jersey in the House of representatives in Congress of the United States, during the twenty-sixth Congress



Now it is only necessary to examine this paper to perceive that in the mind of *this Clerk*, at least, a plan for reversing the election was fixed when he prepared his return. On its face it purports to be a *full return of the whole county*. He does not say that the entire vote of the township of Millville was excluded. But he does say that this "general list" contains "the number of votes received for each candidate," "as appears by the list of *the several townships* in said county, certified by the judges and inspectors *thereof*, duly transmitted and affiled of record" in his office. The certificate was *false*. That list did not contain the number of votes received for each candidate, as appeared by the list of *the several townships* in the county of Cumberland. He took the responsibility of suppressing the returns from Millville which gave the Democratic candidates a majority of one hundred and six votes; and also excluded from his general list the returns from Deerfield, which gave the Democratic candidates a majority of about one hundred. He appends, it is true, what purports to be an extract from the Deerfield returns; but, mark, he does it in a way to make it appear that it was included in the general returns. He appends it as an explanatory note—not as an additional return—explanatory of what? of the preceeding list, of course; leaving the inference plain that

At an election held in the county of Cumberland, in the said State, began on the ninth day of October, in the year of our Lord, one thousand eight hundred and thirty eight, and ended on the following day, as appears by the list of the several townships in said county, certified by the judges and inspectors thereof, duly transmitted and affiled of record of the Clerk's office of said county, viz:

FOR MEMBERS OF THE TWENTY-SIXTH CONGRESS.

Thomas Jones <i>York</i> , nine hundred and thirteen,	-	-	-	-	913
Charles C. Stratton, nine hundred and thirteen,	-	-	-	-	913
Joseph F. Randolph, nine hundred and thirteen,	-	-	-	-	913
William Halsted, nine hundred and eleven,	-	-	-	-	911
John P. B. Maxwell, nine hundred and twelve,	-	-	-	-	912
John B. Aycrigg, nine hundred and thirteen,	-	-	-	-	913
Joseph Kille, seven hundred and forty-one,	-	-	-	-	741
William R. Cooper, seven hundred and forty-three,	-	-	-	-	743
Daniel B. Ryall, seven hundred and forty-four,	-	-	-	-	744
Peter D. Vroom, seven hundred and forty-four,	-	-	-	-	744
<i>Maning</i> Force, seven hundred and forty-three,	-	-	-	-	743
<i>Philamon</i> Dickerson, seven hundred and forty-three,	-	-	-	-	743

The certificate of Deerfield township, the Congressional is headed thus:

FOR MEMBERS OF THE *Thirty-Sixth* CONGRESS ON THE PART OF NEW-JERSEY.

Joseph Kille, two hundred and seventy-three,	-	-	-	-	273
William R. Cooper, two hundred and seventy-five,	-	-	-	-	275
Daniel B. Ryall, two hundred and seventy-one,	-	-	-	-	271
Peter D. Vroom, two hundred and seventy-six,	-	-	-	-	276
<i>Maning</i> Force, two hundred and seventy-three,	-	-	-	-	273
<i>Philamon</i> Dickerson, two hundred and seventy-five,	-	-	-	-	275
Thomas Jones <i>York</i> , one hundred and seventy-seven,	-	-	-	-	177
Charles C. Stratton, one hundred and seventy-six,	-	-	-	-	176
Joseph F. Randolph, one hundred and seventy-six,	-	-	-	-	176
William Halsted, one hundred and seventy five,	-	-	-	-	175
John P. B. Maxwell, one hundred and seventy-seven,	-	-	-	-	177
John B. Aycrigg, one hundred and seventy-seven,	-	-	-	-	177

In testimony whereof, I, Josiah Fithian, Clerk of the said county of Cumberland have here-  
[SEAL.] unto affixed my seal of office, and subscribed my name this seventeenth day of October, in the year of our Lord, one thousand eight hundred and thirty-eight, A. D. 1838.

JOSIAH FITHIAN, *Clerk.*"



the general list embraced, as it purported to embrace all the returns, those of Deerfield among the rest. So that if the Governor and council thought proper to consider the returns from Deerfield invalid, they might deduct it from the general aggregate.

Here was provision made for any emergency. The intent probably was, that the Millville majority of one hundred and six, should be expunged at all events. The seal and the silence of death was set to that. Then if it was found necessary, the Deerfield majority of one hundred could also be extinguished. And should it turn out after all, that the Federal candidates were still minus, the august Governor and Council, might have found somewhere in their profound constitutional researches, that the power of *subtracting*, had been conferred on them, as well as that of "*adding up*" figures, and were provided with a good and valid Federal apology for doing it.

Bearing in mind the facts, that on the *thirteenth* of October, the declaration issued from the high authorities at Harrisburgh, that the time had come, when the Federal party were to treat elections as if they had not been defeated, that on the *fifteenth* it was known throughout the State, that the Federal candidates were defeated by from one to two hundred majority in New Jersey—and that now, on the *seventeenth*, we have the Federal Clerk of Cumberland, with his official certificate, exhibiting a majority of one hundred and sixty-nine votes *for* his party in that county, when in truth and in fact the actual majority was thirty-seven against them—we will pass to the next point of remark.

The *Twentieth* of October, the day on which all the county lists were to be in, arrived; all had come except that from *Middlesex*; and, in the course of the day, the Governor reached the Capitol from his residence at Newark, bringing the Middlesex returns with him.\*

This list, although dated on the *thirteenth*, was not prepared on that day, nor until several days thereafter, as we shall show before we have done. It was, no doubt reserved until the last moment, that it might give just the finish-

\* The following is an accurate copy procured from the proper authority :

"A List of Votes taken in the County of Middlesex on the ninth and tenth of October, A. D. 1838, for Members of the Twenty-Sixth Congress of the United States, as received at the Clerks office from the Judges and Inspectors of the several Townships pursuant to Law.

TOWNSHIPS.	John B. Aycrigg.	John P. B. Maxwell.	William Halsted.	Joseph F. Randolph.	Charles C. Stratton.	Thomas J. Yorke.	Philemon Dickerson.	Manning Force,	Peter D. Vroom.	Daniel B. Ryall.	William R. Cooper.	Joseph Kille.	Whole number of votes
North Brunswick.	494	494	493	494	494	494	377	375	377	376	377	377	872
South Brunswick.	249	249	250	249	249	249	154	154	155	155	154	154	404
Piscataway.	277	277	277	277	276	277	181	180	181	181	181	181	460
Woodbridge.	347	346	346	348	346	345	376	399	377	376	374	374	723
Monroe.	262	262	262	261	262	262	84	84	80	84	84	84	347
Perth Amboy.	82	81	82	82	82	81	114	112	115	114	114	114	197
South Amboy.*													
	1711	1709	1710	1711	1709	1708	1286	1274	1285	1286	1284	1284	3003

\* From this Township no return, pursuant to law, has been received.

In witness whereof, I have hereunto set my hand this thirteenth day of October, A. D. 1838.

N. BOORAEM, Clerk of the County of Middlesex.



ing stroke necessary to carry the fair-business transaction which the leaders had on hand into effect.

Information that the Cumberland Clerk had expunged the Millville Democratic majority of one hundred and six, was received in New Brunswick on the *nineteenth*; the result of the poll exhibiting a Democratic majority in the State ranging to one hundred and ninety-eight, was accurately known at the same place on the *fifteenth*, and this return, which had been withheld up to the morning of the *twentieth*, was now put into the hands of the Governor as he passed through New Brunswick to Trenton.

When Fithian the Clerk of Cumberland county, prepared his "List," we have seen that he was uncertain to what length it would be necessary to go, so he expunged the Millville Democratic majority of one hundred and six, put the Deerfield majority of one hundred in a position to be cut off or not as might be necessary, and furnished the *hint* for disposing of yet another hundred of the majorities of the unruly Democrats if desperate need required. But Booraem's part was plain sailing. He waited until he ascertained the extreme majority; and that Fithian had disposed of one hundred and six certainly; and he just dashed his pen across the returns from Amboy, which gave the Democratic ticket *two hundred and fifty-two majority*; and the job was finished to order. "The election treated as if they had not been defeated."

To proceed with the narrative. The Governor and his Privy Council met on the *twenty-fourth* of October, for the purpose of "casting up the whole number of votes from the several counties for each candidate," and "determining the six persons who had the greatest number of votes from the whole State for Representatives," according to law. That is, to ascertain and announce a fact with which every man, woman and child of ten years old in the State, was perfectly acquainted, and had been for at least nine days already.

They were officially informed at once, of the fact, equally notorious, that the clerks of Cumberland and Middlesex, had made false and fraudulent returns—had sent up only partial lists—and not the general lists required by law, that the returns from two entire townships were wholly omitted—and that consequently it was the duty of the Governor to "send express" and procure the omitted lists. This information was pressed upon them in every possible shape. The judges and inspectors of election of South Amboy and Millville, furnished the returns of their respective townships, sealed, certified, sworn to, and accompanied with evidence, amounting to absolute demonstration, not only of the correctness of the returns, but of their fraudulent rejection by the county clerks. Citizens petitioned, and remonstrated, and claimed to be heard—but in vain. The whole subject was referred to a committee of Federalists, who, on the *thirty-first* of October, reported—

That "the committee to whom the returns from the county clerks, and certain papers on file, were referred, in relation to the copies of the returns of the election in the townships of South Amboy in Middlesex, and Millville in Cumberland, verified by the oaths of the respective election officers, and certain other affidavits relating to the cause and manner of their being excluded from the returns of the clerks of the counties, *as they do not appear to have been transmitted, or in any manner certified by the clerks of the said counties* of Middlesex and Cumberland, that they are of opinion the same are not properly before the Governor and Privy Council, and cannot be recognised or received by them."

This was the very case for which the law had provided, by making it the duty of the Governor, in case the proper lists were not transmitted by any of the clerks, "forthwith to send express to the clerk of the county or counties from which such certified lists of votes had not been received, and procure



the same, at the expense of the State.” It will be recollected, that the Governor had been aware of the omission in the Cumberland and Middlesex cases from the first. He had received the partial return of the Middlesex Clerk from his own hand, on the twentieth of October, and brought it to Trenton himself. He had been officially apprised of the facts, and called upon day after day to do his duty, and refused.

Now, after conference with his privy council, they raised this very difficulty, that the clerks had not transmitted the returns; that the lists had not been received; and sheltered themselves behind it. At this crisis, the Hon. Mr. Morris, a Democratic member of the Council submitted a resolution to remedy the difficulty, by sending expresses to the clerks of these counties, for the omitted returns. It was *negatived*—every Federalist voting against it. The report of the Committee was taken up and *adopted*—every Federalist voting for it, and they proceeded, forthwith, on the same day to count the partial returns from the clerks, excluding the entire votes of the people of Millville and south Amboy, and declared that the Federal candidates were duly elected according to Law.

Let it never be forgotten—that the objection made to counting the votes from these townships, by the Governor and Privy Council, was not that they had not been transmitted at all, but solely that “*they had not been transmitted by the clerks.*” They were before the Council—authenticated by every other possible description of evidence—undisputed, unchallenged, unquestioned; but “they had not been transmitted by the clerks.” That was the point made, that the objection taken, and that only. There it stands, “solitary and alone” upon the record, and there it will stand forever.

Let it never be forgotten, that the law made it the official duty of the head of that Council, to “send for” and “procure” such returns, as should be omitted, and that he refused to do it. That the Privy Council were called upon by a resolution introduced by one of its members, to “send for” and “procure” these returns, and that they refused to do it. That they were then called upon to count the returns which had been procured from the township election officers, and laid before them, and that they refused to do it.

Let it never be forgotten, that these returns from Millville and South Amboy, were suppressed by Federal clerks. That those townships gave a clear majority for the Democratic ticket of *three hundred and fifty-eight*. That all the returns counted, five of the Democratic candidates were elected by a majority of from sixty to about two hundred—and that by this process the election made by the people of New Jersey was reversed. By this process, two party clerks, and a party Governor and Council, *put out their political opponents, and put in their political friends.\**

We have said the Governor and his Privy Council put their defence upon a single point. It is perhaps, due to them that we should state the point with

\* The following table exhibits the result of the election, had the votes of the townships of Millville and South Amboy been counted.

	Dickerson.	Force.	Vroom.	Ryall.	Cooper.	Kille.	Averigg.	Maxwell.	Halsted.	Randolph.	Stratton.	Yorke.
General List.	27961	27813	27990	27939	27954	27925	28150	28239	28192	28283	28251	28177
Millville votes.	206	205	206	206	206	206	100	100	100	100	100	100
South Amboy do.	296	296	296	296	296	296	44	44	44	44	44	44
Whole number.	28453	28314	28492	28441	28456	28427	28294	28383	28336	28427	28396	28321



greater distinctness than we have done. It is this—that they acted in the matter as mere ministerial officers; that returns *in form* had been made from all the counties, that they had no right to go beyond the mere *form* of the returns, and could not amend, correct, reject, or set them aside for any other reason than informality.

This is their whole argument. It assumes in the *first* place—that it is unlawful for a New Jersey Governor and Privy Council, to have eyes to see, ears to hear, or understanding to comprehend any thing in an election case but the marks and figures of county clerks, that they have no right to *know* any thing but what the county clerks tell them, that if Clerk Booream, or Clerk Fithian, informs them there are but three townships in Middlesex and two in Cumberland, they are bound not only to believe it, but to swear to it, because they are “ministerial officers.”

It assumes in the second place, that *form* is every thing, *substance* nothing. That if a county clerk sends a return in form, though false upon its face in every sentence, and word and figure, known by every body to be so, admitted on all hands to be so, proved by testimony as clear as light to be so, they are not to hesitate, or doubt, or inquire, because the proved and perjured villainy, is a thing in “*form*.”

And it assumes that in New Jersey the voice of the people is nothing—the voice of the county clerks, every thing. That the clerks and not the people have the power to determine who shall represent them; and that the will of the former is the law of the case.

Now to all this the simple answer is, that the clear and manifest *intention* of the law, is the guide for all who administer, as well as for all who are subject to it. The law clearly vests in the people the right to choose their representatives, when the choice is made, it directs that the proper officers shall ascertain and announce the fact *truly*.

It directs the Governor and his Privy Counsellors to do it. Who are they? The chief executive magistrate, who is also the Chancellor, and the members of the highest court in the State. What are they to do? To ascertain and determine the six persons who have received the greatest number of votes from the whole State. How? By casting up the whole number of votes from the several counties returned by the clerks. But suppose the clerks do not return the whole number of votes, what then? Why the Governor is to send expresses for them, and procure them. If the clerks refuse to make the required returns, then, *ex necessitate*, other evidence is to be taken; and a township return, if so authenticated as to be legal evidence to the clerk, is legal evidence to the Governor and Council.

Can there be a doubt about it. Why the very same statute which prescribes the mode of proceeding in the election of representatives to Congress, from the act of nominating to the act of commissioning, prescribes the same for the election of electors of President and Vice President—the directions are the same, word for word. And is it possible, that electors of the first officers of the Union are to be the creatures of county clerks. If the Governor and Council are mere automatons, and can move only as an insignificant county clerk shall pull the wire, in one case, they are so in the other. A House of Representatives may correct the error in the first—but the elector once commissioned, there is no power on earth, to look behind that commission, or to stay his hand. The doctrine is wrong in theory, and would be monstrous in practice.

The people never so intended—the legislature never so intended the law is not so. But suppose it had been a doubtful question of construction; sup-



pose honest men might possibly differ about the *terms* of the statute—and no one surely could doubt the intention, how should an honest Governor and Council have acted? Should they not have leaned to that construction which, while it carried out the intention of the law, arrived at the truth and justice of the case, gave effect to the will of the people, and favoured liberty? Or should they have done as this Governor and Council did—strain a point to give effect to fraud, to reach a false result, and violate the sacred principles and genius of republicanism?

But again. The doctrine advanced by the Governor and Privy Council, that “they have no right to go beyond the mere form of the returns, and cannot *amend, correct, or reject, or set them aside* for any other reason, than that they are not made in *due form of law*,” (we quote from their official exposé) is not only absurd, but in direct opposition to all former precedents, and was in fact, violated by this very Council.

1. It is contrary to precedent. In 1828, by the returns of the clerk of Burlington, it appeared that John J. Ely, John S. Ely, and John F. Ely had been voted for; the Governor and Council “amended” the returns by transferring all these votes to the name of John J. Ely. Several other errors of the same kind were corrected in the same manner; votes given to Peter D. Vroom were transferred to Peter D. Vroom, *junior*; votes given to Robert McCarter were transferred to Robert H. McCarter; and votes given to Abraham Godman were transferred to Abraham Godwin. In 1830 the Clerk of the county of Gloucester returned nine hundred and twenty-six votes given to Silas Condict; the names of Silas Condict and Silas Condit were both on nomination for Congress, and the latter had received the vote in other counties, but had not sufficient to elect him without the addition of the Gloucester vote. A Democratic privy council transferred these votes to him, and declared him elected, though he was a political opponent, and, by this amendment of the returns, was elected over a political friend. In 1832 the officers of election of Millville township, in Cumberland, failed to make their return to the county clerk within the time limited by law. The law required the return to be made before five o’clock on the tenth of November, and it was not received until twelve o’clock at night. The Clerk completed his list and sent it to the Governor on the tenth, omitting the Millville vote; but, on the twelfth, he sent up a certificate of the facts, and the Governor and Council *added the Millville votes to their general list*, and declared the whole Democratic ticket elected, though, by excluding the returns from that township, Lewis Condit would have had a majority. This was a federal council, composed, in part, of Governor Southard, Ex-Governor Williamson, and Mr. Seely, who was afterwards Governor, and Dr. Condit was the candidate of their party. This case was exactly similar to that of last October. In both cases the return from Millville was received too late; in the first case at *twelve*, and in the second at *eleven*, P. M. of the last return day. In both cases the Clerk *omitted* the vote of that township in making his return to the Governor. In both cases the vote of Millville cast the majority on the Democratic side. In the first case the omission was “*corrected*,” in the last the power of correction was denied.

2. It was in fact violated by this very council. This same Cumberland Clerk returned, as we have seen, nine hundred and thirteen votes, given to Thomas Jones York and others, as Representatives in the *twenty-sixth* Congress; and also in his explanatory note of the Deerfield return, gives one hundred and seventy-seven votes to Thomas Jones York and others as Representatives in the *thirty-sixth* Congress. Yet the Council “amended and



corrected" the returns by carrying all these votes to the account of Thomas Jones Yorke and others, as members of the *twenty-sixth* Congress. This was necessary to make out Mr. Yorke's majority. In the return from Hunterdon the vote for William Halsted is given "one thousand six hundred and eight." The Council resorted to other evidence beyond the official return, discovered that the vote for Mr. Halsted in Hunterdon was one thousand six hundred and eighty, and "amended and corrected" the return of the Clerk accordingly.

One more aspect of this case remains to be reviewed. We shall do it very briefly.

It is said that the returns from the Townships of South Amboy and Millville not having been made to the clerks of the respective counties in due form, within the proper time, ought not to have been counted by the Governor and Council. The facts are these:

The South Amboy return was made up in due form, except that it was not signed by the Clerk of the election, and that no certificate of the election of James M. Warne, as one of the inspectors, he having been duly elected to that office on the morning of the first day of election, was sent with the return. The return was delivered to the clerk of the county on the twelfth of October, by Mr. Wood the Clerk of election; he states, under oath, that he delivered it on that day to Mr. Booream, and "asked the said Nicholas Booream if it was correct, so that if it was not it might be made correct, to which the said Nicholas Booream replied, as this deponent believes, that *it was all right*, and proceeded to take down the votes for members of Congress from off the said certificate along with the returns of other townships, before deponent left the office." And the fact is that he did, in the first official list prepared by him, include the South Amboy return, for Mr. Steele has deposed that Booream showed him the official list, with all the townships in it, on the *fifteenth*, in the Clerk's office.

The first return from Millville was informal in two or three particulars; but the only objection to the *second* was, that it was received *six hours* after the appointed time, though *four days* before the county Clerk actually made up his return for the county. For the second return for Millville was delivered to the Clerk at 11, P. M. on Saturday, the thirteenth of October, and his return to the Governor is dated the seventeenth.

The grounds, therefore, upon which these returns were rejected are:

1. For want of the signature of the Clerk of election; and
2. For want of a certificate of the election of an inspector in South Amboy; and
3. Because received six hours after time in the Millville case.

Now, upon examination of the official returns from all the counties on file in the Secretary of State's office in New Jersey, it appears that no certificate of the election of the person who acted as judge in Dover township, *Monmouth* county, was received in time, and that no lawful certificates of the election of either judges or inspectors in Shrewsbury or Dover townships, were ever received by the county Clerk. In *Burlington* county the returns from the townships of Burlington, Washington, Chesterfield, New Hanover, and Little Eggharbour, were neither of them signed by the Clerks of election; the return from Mansfield township was without the signature of the Clerk and one of the inspectors; and that from Chester township was received open and unsealed; and in Somerset county no certificate was ever filed with the Clerk of the election of William Parker, who appears, by the returns, to have acted as one of the inspectors in Franklin township.



Yet the returns from all these townships, though accompanied with the evidence of these informalities, were received and counted.

Shewsbury gave a federal majority of	-	-	-	-	63
Dover	"	"	"	-	246
Burlington	"	"	"	-	17
Washington	"	"	"	-	138
Little Eggharbour	"	"	"	-	65
Mansfield	"	"	"	-	9
Chesterfield	"	"	"	-	52
New Hanover	"	"	"	-	34
Chester	"	"	"	-	18
Franklin	"	"	"	-	207

Making a total of 849

Thus, while the township returns of South Amboy, giving a Democratic majority of two hundred and fifty-two, were rejected for want of the signature of the Clerk, and the certificate of the election of an inspector, the returns of *ten* federal townships, giving a federal majority of eight hundred and forty-nine votes, though all wanting one or both the requisites adjudged vital in the Amboy case, or some other equally important, were received and counted.

We have now seen that the decision in the Millville case was in violation of the principle settled in 1832; and that the decision in the Amboy case was in violation of the principle settled in ten other identically similar cases, at the same election, by the Governor and Council in 1838.

We have thus presented a brief narrative of the facts and circumstances of the most alarming fraud ever perpetrated against the right of suffrage in this country since the establishment of our national independence. We have seen the candidates for Congress nominated, voted for, and elected by the people, set aside by a Governor and Council, opposed to them in politics, and men commissioned in their stead, whom the people have rejected, because they had no confidence either in their political principles, or personal qualifications. We have seen this conspiracy generated in the fraud and perfidy of two federal returning officers, rejecting the votes of whole townships without legal authority, and in direct violation of all precedent and usage; the Governor refusing to do his duty under pretext of as petty a quibble as ever disgraced a tyro at pettifogging, and urging the want of the very evidence he was bound to procure as a reason for rejecting all other evidence of the truth of facts in themselves as clear as noon-day. We have seen a Governor, and Council adhering to a settled rule so far as it favoured their own party, and setting it aside whenever it favoured their opponents—counting informal returns from the townships which gave them majorities, and refusing to count informal returns from townships which gave majorities against them. We have seen them officially declaring person elected whom they knew, and every body knew, were not elected; leaping over the restraints of law, the obligations of duty, and the sanctity of their oaths, to reach a false result, to carry out and give effect to fraud, and to reverse the decisions of the people of a free State.

And now what are we told? That Nicholas Booream did right in expunging the return of South Amboy, after having declared to one of the officers of election that it was correct, after entering it upon his general list and exhibiting it to the public; concealing from them all suspicion of the informality,



although the inquiry was made with a view to its amendment in lawful time; and not even certifying what the return was, and wherein it was informal? Do they say that Josiah Fithian did right in suppressing the Millville return, though made to him in due and legal *form*, four days before he made up his general list; and in omitting, contrary to the uniform usage in such cases established as correct, by his predecessors in office, and recognised as correct, by the Governor and Council in 1832, to certify the return with the fact of its late reception? Do they say the Governor and Council did right in refusing to send express for the omitted returns, in shutting their eyes against all collateral evidence and refusing to procure the evidence which they pretended was, alone, legal;—in counting informal returns when in their favor, and refusing to count like informal returns when against them;—in amending and correcting returns when it suited them, and contending that they had no power to do so when it did not suit them; in giving effect to fraud—validity to falsehood—and certifying that to be a fact which was not so? No! there is scarce one still small voice, that now justifies, defends, or palliates those acts.

But it has been discovered that the judge and inspectors of election at Millville, acting upon their construction of the Constitution of New Jersey, which declares that “all *inhabitants* of the State worth fifty pounds, and having resided in the county a year shall be entitled to vote,” admitted several persons who were “inhabitants” of sufficient property and residence, but not naturalized, to vote at the election; the first vote of whom, and the only one challenged, was a Federalist, as were several of the others. And the whole tune of the federal leaders is changed. They abandon all their former grounds, and put themselves upon the allegation that they were defeated by illegal votes. Yet they cling to their fraudulent commissions. They hope to dodge the question as to the legality of these,—slip into the House of Representatives under the wing of a federal majority, upon the *prima facie* evidence of the Governor’s commissions, and hold on while the House takes a twelve months’ hunt after illegal votes through one hundred and fifty townships in the State, assured that the hunt, if it produces nothing else, will result in a mass of testimony utterly incapable of examination, from its very voluminousness—and that the House would, probably, to get rid of the difficulty, order a new election. And then, their pliant tools, grown bold by impunity, and flushed with the success of this first daring experiment in “treating elections as if they had not been defeated” would doubtless take care to profit by the example.

It is thus that, step by step, we see developed the deep laid, settled plan of a party, always hostile to popular liberty and the right of suffrage, to circumvent, overthrow, and destroy it. If it succeeds, another revolution must follow, or liberty ultimately and hopelessly perish from the earth.

In the preceeding narrative of this alarming outrage upon the most sacred institutions of our country, it will be perceived that we have permitted the facts to speak for themselves, and where the circumstances would justify, and seem to call for the utmost severity of language, we have preferred to let them make their own impressions, assisted only by the convincing eloquence of truth and fact. In this course we have relied upon what never deceives in public matters, the sagacity and good sense of the people, to make the proper conclusion as to the ultimate tendencies of such desperate excesses.

Already does the federal party which sought to benefit itself by this iniquitous proceeding appear to shrink from the heavy responsibility of enjoying a triumph so procured. The candidates thus fraudulently elected, have sought to better their position by publicly addressing their injured competitors a

proposition to submit the matter to another election, as the gambler vociferates for a new deal, that he may have another fair chance for the stake which he had thought to have won by slight of hand. The Democratic members we need scarcely add, had too strong a sense of the principles involved in their case to give a moment's countenance to the offer.

The whole case had now gone before the people in their last capacity, to be decided, not by the vote of faction, or the party interests of the hour, but by that truth and justice in which the foundation of our whole constitutional fabric have been laid. It is, therefore, of vital importance that right impressions should prevail respecting it in all its bearings, that a healthy public opinion may be created, in the full cognizance of which every representative must give his vote upon this momentous question. For if the people, through their representatives, can for a moment sanction a party ascendancy obtained by a deliberate violation of the solemn right of suffrage, in which, not merely our parties, but all our cherished institutions, live, move, and have their being, then indeed may we begin to despair of the republic—then indeed may we fear that the great experiment of human liberty and happiness as dependant on a self-governing people, on which, hang the hopes of the world, will be in danger of failure, and our liberty itself be jeopardized in a strife, in which the successful fraud of one party may be at once resisted, and redressed by the successful strength of another.

From No. 18 Democratic Review, for June—1839.

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### ANDREW PARSONS.

We learn from the last Passaic Guardian, a most astonishing fact connected with this gentlemen. It appears, that prior to the first of April last, Mr. PARSONS *was not a naturalized citizen of the United States!!* What! and Vice President of the Council of the State of New Jersey!! Can it be possible? Strange and unaccountable as this disclosure may appear, it is even so? the editor of the Guardian vouches for the truth of this, and indeed publishes the documents! This is certainly a strange piece of business. Mr. Parsons has been a member of Council and Vice President for that body for the two past years, supported and elected by the federal party of Passaic county! The man who took a most conspicuous part in the late conspiracy against the rights of the people—who talked long and loud last winter, about *illegal* votes and *aliens*, when he himself had voted illegally, prehaps for the last twenty years! Well may *Jerseymen* stand amazed at the daring of federal leaders. For the present we leave this matter to the calm reflection of the sons of brave *Jerseymen* who fearlessly beat back the waves of *British* oppression.—*Trenton Emporium.*









# THE UNITED STATES MAGAZINE AND DEMOCRATIC REVIEW,

EDITED AND PUBLISHED AT WASHINGTON CITY,

BY MESSRS. LANGTREE & O'SULLIVAN.

The following resolutions passed in favour of the *Democratic Review* will show the estimation in which the work is held by the defenders of the Democratic principles of 1776.

*From the proceedings of the Democratic Convention at Worcester, Mass.*

"Resolved, That among other instances of this recent employment of the Press in the cause of the People, this Convention notice with pleasure, that the confidence reposed in advance in the truly national periodical which a previous Convention recommended to the Democracy of Massachusetts, has been amply justified by the vigorous logic, the wit, the fancy, and the diversified knowledge, which have enabled the *Democratic Review* not only to take high rank in our political literature, but as the organ of a sound political philosophy, worthy of the spirit of the age, to illustrate and defend the great cause of *Equality against Privilege*."

*From the proceedings of a Democratic meeting held in Green County, N. Y.*

"Resolved, That we regard with high satisfaction the course and character of the *United States Magazine and Democratic Review*—that we consider its establishment and success as a triumphant refutation of the slanders so often cast upon the Democracy of being destitute of intelligence; that we agree with our Democratic brethren of Massachusetts in the sentiment expressed at their recent State Convention, that the vigorous logic, the wit, the fancy, and the diversified knowledge of this work, have given it a high rank, not only in our periodical literature, but also as the organ of a sound political philosophy, worthy of the spirit of the age, to illustrate and defend the great cause of *Equality against Privilege*."

*From the proceedings of a Democratic Convention at Trenton, N. J.\**

"Resolved, That we esteem the *United States Magazine and Democratic Review*, as a powerful auxiliary to the great Republican cause, and most cordially recommend it to the Democratic party in the State of New Jersey, for their support; it sustains, with boldness and distinguished ability, the great principles upon which American Liberty is based, and occupies no unenviable position as a literary periodical."

James Webster, Agent for the *Democratic Review*, respectfully informs those who may be desirous to become subscribers to the Review, that he will deliver the numbers as they come out at the principal public places in the States of New York, New Jersey, Connecticut, Rhode Island, and Vermont, if not free, at very little expense to subscribers. Communications by Mail, post paid, will meet with prompt attention.

Office No. 15 Elm-Street, (near the Post Office.)

P. S. All the back numbers can be furnished.

\* NOTE. More than 1800 citizens, composed of the bone and sinew of New Jersey, assembled at this convention.

## A CARD.

Persons wishing to possess the valuable national documents left by the illustrious *Madison*, are respectfully informed that the work will be published in the course of a few weeks, and will be delivered to subscribers at the subscription price, viz. \$3 per vol. (the work will not exceed 3 volumes,) at most of the principal places in the States of New Jersey, New York, Connecticut, Rhode Island and Vermont. Subscriptions will be received by James Webster, General Agent for the *Democratic Review*, No 15 Elm-Street, New York, also by his Sub-Agents in the Country.

New-York, July 4, 1839.